IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.1892 OF 2006

St. Xavier Institute of

Engineering Society & Anr...Petitioners

Vs.

State of Maharashtra & Ors...Respondents

Mr. S.C. Naidu i/b. C.R. Naidu & Co., for the

Petitioners

Mr. A.A. Kumbhakoni, Associate Advocate

General with Mr. M.D. Naik, AGP for

Respondents.

CORAM: **F.I. REBELLO &**

MRS.V.K.TAHILRAMANI, JJ.

DATE: **26th July,2006**

P.C.

. Rule. Heard forthwith.

2. Petitioner No.1 is running an educational institute known as St. Xavier Technical Institute which the respondents have recognised as a minority institution. The petitioner No.1 has also now established Petitioner No.2 in respect of which also they have sought recognition as a minority institution, by an application dated 27th March, 2006. That application is still pending before respondent No.1. On behalf of the petitioners

learned Counsel draws our attention to the National Commission for Minority Educational Institutions (Amendment) Ordinance, 2006 which came into force at once. The same was published in the Gazette of India, Extraordinary Part II-Section 1 on 23rd January, 2006. In terms of the said Ordinance the Appropriate Government has been defined as also Competent Authority. In terms of Chapter III the Application has to be decided within a period of 90 days failing with there is deemed recognition.

3. It appears that the State of Maharashtra is in the process of complying with the provisions of the said Ordinance and has framed the Policy for that purpose. It is in these circumstances it is pointed out that it was not possible to entertain the application made by the petitioners.

4. Considering the above, in our opinion, the petition can be disposed of by issuing the following directions:-

(i) As the respondent NO.1 has already recognised St.Xavier Technical Institute established and administered by petitioner No.1 as a minority institution, it prima facie presupposes that the petitioner No.1 meets the requirements of a minority institution as defined under Article 13(1) of the Constitution of India.

(ii) As petitioner No.2 is being established and administered by petitioner No.1 prima facie we see no reason why for the ensuing academic year the petitioner No.2 should not admit students on the basis that it is a minority institution.

(iii) In the meantime it will be open to respondent No.1 to consider the status of the petitioner No.2 in terms of the policy now framed and thereafter to dispose of the same according to law.

(iv) If the respondent No.1 comes to the conclusion that the petitioner No.2 does not meet the requirement of minority as set out in Article 13(1) then the petitioner No.2 would not be entitled to the said status. However, for the present academic year the students admitted would not be affected.

(v) If the respondent No.1 accept the petitioner No.2 as a minority institute it will continue to enjoy all facilities for all purposes thereafter.

(vi) Rule made absolute accordingly. There shall be no order as to costs.

. All authorities to act on an authenticated copy of this order.

(**F.I. REBELLO**, J.)

(MRS.V.K.TAHILRAMANI, J)